

1-1 By: Hancock S.B. No. 1071  
 1-2 (In the Senate - Filed February 23, 2017; March 7, 2017,  
 1-3 read first time and referred to Committee on Business & Commerce;  
 1-4 April 24, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 24, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Hancock	X			
1-9 Creighton	X			
1-10 Campbell	X			
1-11 Estes	X			
1-12 Nichols	X			
1-13 Schwertner	X			
1-14 Taylor of Galveston	X			
1-15 Whitmire	X			
1-16 Zaffirini	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1071 By: Hancock

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the regulation of insurance holding company systems,  
 1-22 including internationally active insurance groups; authorizing a  
 1-23 fee.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 823.002, Insurance Code, is amended by  
 1-26 adding Subdivisions (4-b) and (6-a) to read as follows:

1-27 (4-b) "Group-wide supervisor" means the regulatory  
 1-28 official authorized to engage in conducting and coordinating  
 1-29 group-wide supervision activities who is determined or  
 1-30 acknowledged by the commissioner under Section 823.0147 to have  
 1-31 sufficient significant contacts with the internationally active  
 1-32 insurance group.

1-33 (6-a) "Internationally active insurance group" means  
 1-34 an insurance holding company system that:

1-35 (A) includes an insurer registered under  
 1-36 Subchapter B; and

1-37 (B) meets the following criteria:

1-38 (i) has premiums written in at least three  
 1-39 countries;

1-40 (ii) has a percentage of gross premiums  
 1-41 written outside the United States of at least 10 percent of the  
 1-42 insurance holding company system's total gross written premiums;  
 1-43 and

1-44 (iii) based on a three-year rolling  
 1-45 average, has total assets of at least \$50 billion or total gross  
 1-46 written premiums of at least \$10 billion.

1-47 SECTION 2. Sections 823.011(a), (d), and (d-1), Insurance  
 1-48 Code, are amended to read as follows:

1-49 (a) This section applies only to information, including  
 1-50 documents and copies of documents, that is:

1-51 (1) reported or otherwise provided under Subchapter B  
 1-52 or C or Section 823.201(d) or (e) or Section 823.0147;

1-53 (2) disclosed to the commissioner under Section  
 1-54 823.010; or

1-55 (3) obtained by or disclosed to the commissioner or  
 1-56 another person in the course of an examination or investigation  
 1-57 under Subchapter H or Chapter 401.

1-58 (d) Except as provided by Subsection (e), if the recipient  
 1-59 of documents or other information described by Subsection (a)  
 1-60 agrees in writing to maintain the confidential and privileged

2-1 status of the documents or other information, and verifies in  
 2-2 writing the legal authority to maintain the confidential and  
 2-3 privileged status of the documents or information, the commissioner  
 2-4 or another person may disclose the information to any of the  
 2-5 following entities functioning in an official capacity:

- 2-6 (1) a commissioner of insurance or an insurance  
 2-7 department of another state;
- 2-8 (2) an authorized law enforcement official;
- 2-9 (3) a district attorney of this state;
- 2-10 (4) the attorney general;
- 2-11 (5) a grand jury;
- 2-12 (6) members of a supervisory college described by  
 2-13 Section 823.0145;
- 2-14 (7) the National Association of Insurance  
 2-15 Commissioners and its affiliates and subsidiaries; or
- 2-16 (8) another state, federal, or international  
 2-17 regulatory agency.

2-18 (d-1) The commissioner may receive documents or  
 2-19 information, including otherwise confidential and privileged  
 2-20 documents or information, from the entities listed in Subsection  
 2-21 (d) [7] and shall maintain as confidential or privileged any  
 2-22 document or information received by the commissioner with notice or  
 2-23 an understanding that the document or information is confidential  
 2-24 or privileged under the laws of the jurisdiction of the entity that  
 2-25 provides the document or information.

2-26 SECTION 3. Subchapter A, Chapter 823, Insurance Code, is  
 2-27 amended by adding Section 823.0147 to read as follows:

2-28 Sec. 823.0147. GROUP-WIDE SUPERVISION OF INTERNATIONALLY  
 2-29 ACTIVE INSURANCE GROUPS. (a) The commissioner is authorized to  
 2-30 act as the group-wide supervisor for any internationally active  
 2-31 insurance group under the provisions of this section.

2-32 (b) The commissioner may otherwise acknowledge another  
 2-33 regulatory official as the group-wide supervisor where the  
 2-34 internationally active insurance group:

2-35 (1) does not have substantial insurance operations in  
 2-36 the United States;

2-37 (2) has substantial insurance operations in the United  
 2-38 States, but not in this state; or

2-39 (3) has substantial insurance operations in the United  
 2-40 States and this state, but the commissioner has determined under  
 2-41 the factors in Subsections (e) and (k) that the other regulatory  
 2-42 official is the appropriate group-wide supervisor.

2-43 (c) An insurance holding company system that does not  
 2-44 otherwise qualify as an internationally active insurance group may  
 2-45 request that the commissioner make a determination or  
 2-46 acknowledgment as to a group-wide supervisor under this section.

2-47 (d) In cooperation with other state, federal, and  
 2-48 international regulatory agencies, the commissioner will identify  
 2-49 a single group-wide supervisor for an internationally active  
 2-50 insurance group. The commissioner may determine that the  
 2-51 commissioner is the appropriate group-wide supervisor for an  
 2-52 internationally active insurance group that conducts substantial  
 2-53 insurance operations concentrated in this state. The commissioner  
 2-54 may acknowledge that a regulatory official from another  
 2-55 jurisdiction is the appropriate group-wide supervisor for the  
 2-56 internationally active insurance group.

2-57 (e) The commissioner shall consider the following factors  
 2-58 when making a determination or acknowledgment under Subsection (d):

2-59 (1) the place of domicile of the insurers within the  
 2-60 internationally active insurance group that hold the largest share  
 2-61 of the group's written premiums, assets, or liabilities;

2-62 (2) the place of domicile of the top-tiered insurers  
 2-63 in the insurance holding company system of the internationally  
 2-64 active insurance group;

2-65 (3) the location of the executive offices or largest  
 2-66 operational offices of the internationally active insurance group;

2-67 (4) whether another regulatory official is acting or  
 2-68 is seeking to act as the group-wide supervisor under a regulatory  
 2-69 system that the commissioner determines to be:

3-1 (A) substantially similar to the system of  
3-2 regulation provided under the laws of this state; or  
3-3 (B) otherwise sufficient in terms of providing  
3-4 for group-wide supervision, enterprise risk analysis, and  
3-5 cooperation with other regulatory officials; and  
3-6 (5) whether another regulatory official acting or  
3-7 seeking to act as the group-wide supervisor provides the  
3-8 commissioner with reasonably reciprocal recognition and  
3-9 cooperation.

3-10 (f) A commissioner identified under this section as the  
3-11 group-wide supervisor may determine that it is appropriate to  
3-12 acknowledge another supervisor to serve as the group-wide  
3-13 supervisor. The acknowledgment of the group-wide supervisor shall  
3-14 be made after consideration of the factors listed in Subsection  
3-15 (e), and shall be made in cooperation with and subject to the  
3-16 acknowledgment of other regulatory officials involved with  
3-17 supervision of members of the internationally active insurance  
3-18 group, and in consultation with the internationally active  
3-19 insurance group.

3-20 (g) Notwithstanding any other provision of law, when  
3-21 another regulatory official is acting as the group-wide supervisor  
3-22 of an internationally active insurance group, the commissioner  
3-23 shall acknowledge that regulatory official as the group-wide  
3-24 supervisor.

3-25 (h) The commissioner shall make a determination or  
3-26 acknowledgment as to the appropriate group-wide supervisor for an  
3-27 internationally active insurance group under Subsection (d) or (f)  
3-28 in the event of a material change in the internationally active  
3-29 insurance group that results in:

3-30 (1) the internationally active insurance group's  
3-31 insurers domiciled in this state holding the largest share of the  
3-32 group's premiums, assets, or liabilities; or  
3-33 (2) this state being the place of domicile of the  
3-34 top-tiered insurers in the insurance holding company system of the  
3-35 internationally active insurance group.

3-36 (i) Under Subchapter H, the commissioner is authorized to  
3-37 collect from any insurer registered under Subchapter B all  
3-38 information necessary to determine whether the commissioner may act  
3-39 as the group-wide supervisor of an internationally active insurance  
3-40 group or if the commissioner may acknowledge another regulatory  
3-41 official to act as the group-wide supervisor. Prior to issuing a  
3-42 determination that an internationally active insurance group is  
3-43 subject to group-wide supervision by the commissioner, the  
3-44 commissioner shall notify the insurer registered under Subchapter B  
3-45 and the ultimate controlling person within the internationally  
3-46 active insurance group. The internationally active insurance group  
3-47 shall have not less than 30 days to provide the commissioner with  
3-48 additional information pertinent to the pending determination. The  
3-49 commissioner may publish on the department's website the identity  
3-50 of internationally active insurance groups that the commissioner  
3-51 has determined are subject to group-wide supervision by the  
3-52 commissioner.

3-53 (j) If the commissioner is the group-wide supervisor for an  
3-54 internationally active insurance group, the commissioner is  
3-55 authorized to engage in any of the following group-wide supervision  
3-56 activities:

3-57 (1) assess the enterprise risks within the  
3-58 internationally active insurance group to ensure that:

3-59 (A) the material financial condition and  
3-60 liquidity risks to the members of the internationally active  
3-61 insurance group that are engaged in the business of insurance are  
3-62 identified by management; and

3-63 (B) reasonable and effective mitigation measures  
3-64 are in place;

3-65 (2) request, from any member of an internationally  
3-66 active insurance group subject to the commissioner's supervision,  
3-67 information necessary and appropriate to assess enterprise risk,  
3-68 including information about the members of the internationally  
3-69 active insurance group regarding:

4-1 (A) governance, risk assessment, and management;  
4-2 (B) capital adequacy; and  
4-3 (C) material intercompany transactions;  
4-4 (3) coordinate and, through the authority of the  
4-5 regulatory officials of the jurisdictions where members of the  
4-6 internationally active insurance group are domiciled, compel  
4-7 development and implementation of reasonable measures designed to  
4-8 ensure that the internationally active insurance group is able to  
4-9 timely recognize and mitigate enterprise risks to members of the  
4-10 internationally active insurance group that are engaged in the  
4-11 business of insurance;  
4-12 (4) communicate with other state, federal, and  
4-13 international regulatory agencies for members within the  
4-14 internationally active insurance group and share relevant  
4-15 information, subject to the confidentiality provisions of Section  
4-16 823.011, through supervisory colleges in Section 823.0145 or  
4-17 otherwise;  
4-18 (5) enter into agreements with or obtain documentation  
4-19 from any insurer registered under Subchapter B, any member of the  
4-20 internationally active insurance group, and any other state,  
4-21 federal, and international regulatory agencies for members of the  
4-22 internationally active insurance group, providing the basis for or  
4-23 otherwise clarifying the commissioner's role as group-wide  
4-24 supervisor, including provisions for resolving disputes with other  
4-25 regulatory officials, provided that such agreements or  
4-26 documentation may not serve as evidence in any proceeding to show  
4-27 that any insurer or person within an insurance holding company  
4-28 system not domiciled or incorporated in this state is doing  
4-29 business in this state or is otherwise subject to jurisdiction in  
4-30 this state; and  
4-31 (6) other group-wide supervision activities,  
4-32 consistent with the authorities and purposes enumerated above, as  
4-33 considered necessary by the commissioner.  
4-34 (k) If the commissioner acknowledges that another  
4-35 regulatory official from a jurisdiction that is not accredited by  
4-36 the National Association of Insurance Commissioners is the  
4-37 group-wide supervisor, the commissioner is authorized to  
4-38 reasonably cooperate, through supervisory colleges or otherwise,  
4-39 with group-wide supervision undertaken by the group-wide  
4-40 supervisor, provided that:  
4-41 (1) the commissioner's cooperation is in compliance  
4-42 with the laws of this state; and  
4-43 (2) the regulatory official acknowledged as the  
4-44 group-wide supervisor also recognizes and cooperates with the  
4-45 commissioner's activities as a group-wide supervisor for other  
4-46 internationally active insurance groups where applicable.  
4-47 (l) Where recognition and cooperation are not reasonably  
4-48 reciprocal under Subsection (k)(2), the commissioner is authorized  
4-49 to refuse recognition and cooperation.  
4-50 (m) The commissioner is authorized to enter into agreements  
4-51 with or obtain documentation from any insurer registered under  
4-52 Subchapter B, any affiliate of the insurer, and other state,  
4-53 federal, and international regulatory agencies for members of the  
4-54 internationally active insurance group that provides the basis for  
4-55 or otherwise clarifies a regulatory official's role as group-wide  
4-56 supervisor.  
4-57 (n) The commissioner may adopt rules necessary for the  
4-58 administration of this section.  
4-59 (o) A registered insurer subject to this section shall be  
4-60 liable for and shall pay the reasonable expenses of the  
4-61 commissioner's participation in the administration of this  
4-62 section, including the engagement of attorneys, actuaries, and any  
4-63 other professionals and all reasonable travel expenses.  
4-64 SECTION 4. Section 823.054(b), Insurance Code, is amended  
4-65 to read as follows:  
4-66 (b) If the amount of a single transaction or the total  
4-67 amount of all transactions involving sales, purchases, exchanges,  
4-68 loans or other extensions of credit, or investments is more than  
4-69 [the lesser of] one-half of one percent of an insurer's admitted

5-1 assets [~~or five percent of an insurer's surplus,~~] as of December 31  
5-2 of the year preceding the date of the transaction or transactions,  
5-3 the transaction or transactions, respectively, are considered to be  
5-4 material for purposes of this section.

5-5 SECTION 5. (a) Section 823.011, Insurance Code, as amended  
5-6 by this Act, applies only to information, including documents and  
5-7 copies of documents, obtained by or reported, disclosed, or  
5-8 otherwise provided to the commissioner of insurance on or after the  
5-9 effective date of this Act. Information, including documents and  
5-10 copies of documents, obtained by or reported, disclosed, or  
5-11 otherwise provided to the commissioner of insurance before the  
5-12 effective date of this Act is governed by the law in effect on the  
5-13 date the transaction occurred, and the former law is continued in  
5-14 effect for that purpose.

5-15 (b) Section 823.054, Insurance Code, as amended by this Act,  
5-16 applies only to a transaction that occurs on or after the effective  
5-17 date of this Act. A transaction that occurs before the effective  
5-18 date of this Act is governed by the law in effect on the date the  
5-19 transaction occurred, and the former law is continued in effect for  
5-20 that purpose.

5-21 SECTION 6. This Act takes effect immediately if it receives  
5-22 a vote of two-thirds of all the members elected to each house, as  
5-23 provided by Section 39, Article III, Texas Constitution. If this  
5-24 Act does not receive the vote necessary for immediate effect, this  
5-25 Act takes effect September 1, 2017.

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